



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

The State and Industrial Conflict

By W. JETT LAUCK

Formerly Secretary of the National War Labor Board

IT is essential that there should be definite and unprecedented action by the state in connection with industrial warfare. This action should not be prohibitive or coercive, but remedial and preventative. There should be no anti-strike legislation, but measures should be adopted under which strikes will not occur.

The state must lay down the conditions under which industry shall function. At the present time, there are, in this country, no accepted principles for the guidance or regulation of industrial relations. The public, with the exception of some fundamental guarantees, such as the right of a wage-earner to strike, to work for whom he pleases, and for an employer to enjoy property protection and to employ whomsoever he pleases, has not established any course of procedure for the guidance of employers and employees. Capital and labor have been left to themselves—to agree as to conditions and relations, or to fight it out.

It has been assumed that the two parties to the labor question could agree, or work out their own basis of procedure. This assumption, however, has been found to be unsound. There has been no agreement, but, on the contrary, more extensive and bitter conflict. The stage has now been reached where there is no hope of agreement. The public must intervene, and, by legislative action, lay down the rights of labor, the rights of capital, and the predominant rights of the public, and establish the machinery for the interpretation and adjudication of these rights. A Magna Carta for industry must be written and sanctioned, in accordance

with our democratic standards and ideals.

PRINCIPLES AND MACHINERY

Principles are of primary significance. Machinery, or agencies for the settlement of industrial disputes, are of secondary importance. The difficulty has been that in state intervention in industrial conflict in the past, adjustment machinery has been considered all-important and no attention has been given to principles, or to an industrial code, or bill of rights for capital and labor.

This tendency is well illustrated by the two most noteworthy agencies which have recently been created for the adjustment of labor controversies—the United States Railroad Labor Board and the Kansas Court of Industrial Relations. Neither the rights of capital nor labor, in submitting to those tribunals, are known. It all depends on the tribunal or its personnel. There should in each case be a code of principles mandatory upon each agency, setting forth the attitude of the public as to the fundamental rights and privileges of capital and labor, which either party to a controversy could invoke. When an employer or a wage-earner, under these conditions, was summoned before agencies such as the Kansas Court of Industrial Relations or the United States Railroad Labor Board, he would know what his rights were and could expect any controversy to be adjusted on the basis of these rights or principles. As it is now, since labor and capital have been unable to agree as to fundamental rights and principles, and since the public has failed to give

expression to any code, industrial conflict inevitably results with great loss to the public and to the participants, and even when agencies are created for the orderly adjustment of disputes, no permanent progress towards industrial peace is made, because no lasting sanction to any principle results. It is manifestly the duty of the public to sanction a bill of rights, in conformity with our democratic institutions and ideals, for the guidance of industrial relations and conditions, and for the direction of all public bodies charged with the responsibility of adjusting labor disputes.

A NECESSARY SUPPLEMENT TO POLITICAL DEMOCRACY

It has required more than a century for the principles and forms of political democracy, which received their great impetus from the French Revolution, to find acceptance among the nations of Northern and Western Europe. More striking than this slow development, however, is the fact that now, at the very culmination of the movement, it is generally accepted by enlightened opinion in all of our leading industrial and commercial nations, that the political democracy, for which we have so long fought and struggled, will be a failure unless it is supplemented by sound measures for the attainment of industrial democracy.

This consensus of opinion may be perhaps more or less unconscious and uncrystallized at present, but it is none the less apparent. It concedes that as the result of a long struggle, equality in political activity and in personal and civil liberty has been secured. It realizes that the World War had for its object the destruction of autocracy and privilege in their last stand against democratic political control. On the other hand, it is shown that, along with

the evolution of political democracy, has proceeded our wonderful industrial development. Its main characteristic has been the growth of large scale production. By the bringing together of all the elements entering into the manufacture of finished products, and by the utilization of new inventions and mechanical genius, economies have been secured which have made possible the production of commodities in great quantities at low costs. The necessary direction of large scale production has been secured, however, by the creation of artificial legal personages, or, in other words, by industrial corporations, in which have gradually become centered on a national or international scale, the control of basic industries employing thousands of men and women engaged in the production of commodities essential to the public well-being.

The point has now been reached, it is claimed, at which these industrial corporations must be subordinated to democratic, political institutions. Unless we can have democracy in industry and democratic control of industry, our political institutions which have been developed with so much bloodshed and suffering will be futile and ineffective. The significance of the present-day unrest and turmoil whether in industrial warfare or social agitation may therefore be said to arise from the fact that the close of the World War marks the beginning of a new conception of democracy.

POLICIES WHICH ARE ADVOCATED

With the general purpose in mind of bringing our industrial institutions into harmonious relations with the fundamental principles of political democracy, several comprehensive programs have been put forward. Some of these are extremely radical, others liberal and still others conservative. These

programs may be briefly classified as follows:

1. *Maintenance with Modifications of the Present Dominance of Capital in Industry.*—

This point of view represents an effort on the part of the existing order to get into touch with the new order by yielding only what may be termed the minimum concessions. It is illustrated by the plans for railway reorganization put forward in 1920 by the United States Chamber of Commerce. They included union recognition, joint boards composed equally of employers and employees for the adjustment of differences between the working forces and the management, labor representation on the boards of directors of Regional Railway Corporations, and the regulation by the government of railway corporation finance and security issues. This plan may be described as public control of corporate activities in the public interest, joint labor and capital control of industrial conditions and relations under public supervision, and the continuance under these conditions of industry by capital with minority labor representation in the directing forces. This plan, however, concedes a very distinct modification of the previous dominance of capital in industry as can be readily seen.

2. *The Dominance of Labor.*—

This plan received its extreme application, as is well known, in Russia. It is also being urged in a modified way in Great Britain in the form of guild socialism, as a method for socializing industry by which industries would be controlled by labor under the general supervision of the state as an arbitrator. The same reasons hold against it as are now directed against the dominance of capital on the ground that neither an autocracy of capital nor of labor is wise or desirable.

3. *Joint Control by Labor and Management.*—

This scheme for socialization of industry practically makes the state or government the capitalist by providing for government purchase of industrial enterprises which are then to be operated for the benefit of labor, management and the public, by distinct corporations, the directors of which are to be representative of employees, managers and the public, as in the case of the Plumb Plan for railway nationalization in this country, or operation by a joint board of directors composed of labor and management, as recommended by the British railway employees after the War, or by the Miners' Federation of Great Britain before the Sankey Commission for the consideration of measures for the nationalization of the coal industry. The criticism which is made against these proposals is that in actual practice there is no real distinction between industrial managers and other forms of mental or physical labor employed in industry, and that these programs, therefore, practically advocate a socialization of industry and its operation by a labor autocracy.

4. *State or Municipal Ownership and Operation.*—

This proposal obviously provides for the acquisition and direct operation of industry by the state. It is advocated in connection with street railways and other public utilities in this country. As regards public utilities at least this policy is acknowledged to be theoretically sound, but, practically, very difficult in the United States because our experience has shown that it so often leads to the improper use of political power upon the management of public utilities.

5. *The Predominance of the Public.*—

Proposals along these lines have been put forward in this country in connec-

tion with the socialization of public utilities. They provide for the acquisition of corporation properties by the state or government, but their operation by a distinct corporation on the board of directors of which the public would have a majority free from political influence or affiliations and both labor and capital would have minority representation.

THE ORIGIN OF THESE CONSTRUCTIVE PROGRAMS

These constructive programs have been brought about in this country in recent years by the strongly developed tendency of industry to dominate our democratic institutions. A conservative movement towards reform was being inaugurated prior to the outbreak of the War. As the result of the promises of the war period, a most extraordinary impetus was given to this movement. The minds of men were also opened to the significance of the old industrial conditions and they have evidently determined that they shall not be perpetuated. Out of the War has come the idea, which is widely accepted, that industry must serve the common good. The fundamental rights of capital and labor, it is claimed, must be guaranteed and protected, but there must be no autocracy of either or both in industry. Industry, in other words, must be democratized—the public or popular interest must be made paramount.

THE PRESENT MOVEMENT

In general, it is aimed to bring about this ideal in two ways. In the first place, the general direction of industry must be made subordinate to the fundamental principles and ideals of democracy. This is what may be termed the larger aspect of the labor problem. It is planned to accomplish it by political action. In a conservative way, it contemplates the proper

regulation of the promoting and financing of industrial corporations so that their earnings may become evident and the public may enjoy an equitable participation in these earnings through lower prices of commodities or higher wages. It aims to abolish all monopoly privileges and special legislative favors, as well as arbitrary prices, and to prevent the conduct of industry along lines opposed to human welfare, such as the employment of women and children.

THE ESTABLISHMENT OF AN INDUSTRIAL BILL OF RIGHTS

In the second place, it is evident that our political constitution will have to be supplemented by legislative action in establishing an industrial code, or a bill of industrial rights. This means the incorporation into our constitution of certain standards and guarantees to labor and capital, under which human and property rights will be protected, and the public interest subserved. This is the aspect of industrial democracy with which we are at present immediately and practically concerned. We must now work out as a basis of procedure a series of principles which will set forth the fundamental rights and standards of employees and employers in their relations with each other and the public, and agree upon agencies for the interpretation and administration of these principles so that industrial warfare may be prevented and stability of production maintained.

Certain fundamental principles were agreed upon by employers and employees and officially proclaimed as the government policy by President Wilson during the War in the form of the constitution of the National War Labor Board. Since the armistice, however, the only effort which has been put forward in this connection has been the so-called Kenyon Bill for the regulation of the coal mining industry. The code

contained therein, although not comprehensive, might well be used by Congress as the basis for a beginning and applied to all firms and corporations engaged in interstate commerce. As an example of what might be done, it is set forth in part below, as follows:

1. Human standards should be the constraining influence in fixing the wages and working conditions of mine workers.

2. Capital prudently and honestly invested in the coal industry should have an adequate return.

3. The right of operators and miners to organize is recognized and affirmed. This right shall not be denied, abridged or interfered with in any manner whatsoever, nor shall coercive measures of any kind be used by employers or employees, or by their agents or representatives, to compel or to induce employers or employees to exercise or to refrain from exercising this right.

4. The right of operators and of miners to bargain collectively through representatives of their own choosing is recognized and affirmed.

5. The miners who are not members of a union have the right to work without being harassed by fellow workmen who may belong to unions. The men who belong to a union have the right to work without being harassed by operators. The organizations have a right to go into non-union fields and by peaceable methods try to persuade men to join the unions, but they have no right to try to induce employees to violate contracts which they have entered into with their employers, and the operators, on the other hand, have the right by peaceable means to try to persuade men to refrain from joining the unions.

6. The right of every unskilled common laborer to earn a living wage sufficient to maintain a normal family in health and reasonable comfort, and to afford an opportunity for savings against unemployment, old age, and other contingencies is hereby declared and affirmed. Above this basic wage for unskilled workers, differentials in rates of pay for other mine workers shall be established for skill, experience, hazards of employment and productive efficiency.

7. The right of women to engage in indus-

trial occupations is recognized and affirmed; their rates of pay shall be the same as those of male workers for the same or equivalent service performed; they shall be accorded all the rights and guarantees granted to male workers and the conditions of their employment shall surround them with every safeguard of their health and strength and guarantee them the full measure of protection which is the debt of society to mothers and to potential mothers.

8. Children under the age of sixteen years shall not be employed in the mines.

9. Six days shall be the standard work week in the industry with one day's rest in seven. The standard workday shall not exceed eight hours a day.

10. Punitive overtime shall be paid for hours worked each day in excess of the standard workday.

THE EXISTING SITUATION

The rights and privileges of capital have long been established and recognized. In their relation to democratic institutions they have, during recent years, been modified, and, although fundamentally they must be conserved in a just and reasonable way, they must be further abridged and subordinated to sound democratic ideals.

The rights of labor have not as yet become crystallized and formally sanctioned except in a very elementary way. They consist, at present, largely of customs and precedents established in certain basic industries, of standards sanctioned by enlightened public opinion, and of pronouncements by publicists, arbitration boards, political parties, the churches, and various industrial and social conferences and organizations.

So far as industrial relations and conditions are concerned, industry is without a constitution or a bill of rights. To a certain extent it has adjustment boards or courts, either temporary or permanent, but there are no rights which an employer or employee can invoke when he submits to judicial process, and there are no definite principles

established for the guidance of the members of the adjustment agencies themselves.

The public interest is paramount. Enlightened public opinion is practically unanimous as to what principles should be established for the guidance of industrial relations and conditions. Our experience since the War has demonstrated that labor and capital cannot be expected to agree upon an industrial code, and, even were this possible, the broader public interest

would not probably receive proper consideration. The conclusion is therefore irresistible that it would be the part of genuine democratic and industrial statesmanship to establish at once, by legislative action, an industrial code and the machinery for its interpretation and application. Only by this method can industrial conflict be minimized and a real movement towards the attainment of a sound and permanent political and industrial democracy inaugurated.